

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TIM SUNG CHENG,

**ORDER**

**09-CV-5138 (NGG)**

Plaintiff,

-against-

CITY OF NEW YORK.

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

On January 5, 2010, the court held a pre-motion conference on the City's anticipated motion to dismiss. At the conference, Plaintiff expressed a desire to amend his Complaint to avoid unnecessary motion practice. The court afforded Plaintiff thirty days in which to do so. The court also pointed out that service had not yet been made upon the individual police officer named in the Complaint. Despite the court's instructions, Plaintiff took no action to amend the Complaint or to effect service upon the officer.

On March 25, 2010, the court held a status conference to find out why the case was not moving forward. Plaintiff's counsel explained that family matters had taken time away from her solo practice. The court allowed Plaintiff an additional thirty days to resolve the service of process issue, and to either amend the Complaint or advise the court that he wished to stand on the original Complaint and move forward with a briefing schedule on Defendants' motion to dismiss. The court specifically warned that there would be no further extensions and that failure to follow the court's instructions within the time allowed would result in dismissal of the case.

Since the conference, Plaintiff has taken no further action on this matter. In light of the court's specific warning, it appears that Plaintiff does not currently intend to pursue the case. Accordingly, the court now dismisses the action without prejudice for failure to prosecute.

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York  
May 14, 2010

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NICHOLAS G. GARAUFIS  
United States District Judge